IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.15113 of 2000

Between:

Shiak Maqbool Hussain, S/o Md.Ali Hussain,
R/o D.No.12/47 Bhanumukkala Kondapet, Banaganapalli Village & Mandal,
Kurnool District.

..... PETITIONER

AND

1 The Circle Inspector of Police, Banganapalli Village & Mandal,

Kurnool District.
2 The Station House Officer, Banganapalli Police Station,
Banganapalli Village & Mandal, KurnoolDistrict.
3 The Revenue Divisional Officer, Nandyal, Kurnool District.
4 The Mandal Revenue Officer, Banganapalli Village & Mandal,

Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of Respondent 1 & 2 in interfering with peaceful possession and enjoyment of the petitioner's Tea Stall situated in S.No.172/1B to an extent of Ac.0.01 cents of land of Banganapalli Village & Mandal, Kurnool District, is arbitrary, illegal and the Respondent 1 & 2 have no power or jurisdiction to interfere with peaceful possession of the petitioner's tea stall and consequently direct the respondent not to dispossess the petitioner's tea stall situated in S.No.172/1B to an extent of Ac.0.01 cents of Banganapalli Village & Mandal, KurnoolDistrict, without following due process law.

Counsel for the Petitioner: MR.K.MURALIDHAR REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR HOME

Counsel for the Respondent Nos.3 and 4: GP FOR REVENUE

The Court made the following:

ORDER:

Land admeasuring Acs.0.01 in Survey No.172/1B was initially assigned to one Shali Saheb who erected a tea stall. After his death, the petitioner claims to be in occupation and running the tea stall. The petitioner also submitted a representation to the District Collector for allotment of the land in his name. Be that as it is, it is the grievance of the petitioner that respondents 1 and 2 came to the tea stall and directed him to remove the tea stall on the ground that it is causing inconvenience to traffic. When the petitioner did not remove, it is alleged, that the respondents 1 and 2 again came to the tea stall on 11.8.2000 and threatened to remove the tea stall. Therefore, the present writ petition is filed seeking direction to the respondents not to dispossess the petitioner.

The petitioner has annexed a copy of the proceedings of the District Revenue Officer dated 06.1.1975 whereby and whereunder temporary permission was granted to Shali Saheb for erecting a hut in Survey No.172/1B of Banaganapalle village with a clear indication that the permission is liable to be terminated at any stage. After death of Shali Saheb, the petitioner is in possession of the tea stall and therefore, without any due process of law, the revenue officials or police would not have evicted the petitioner. This Court while admitting the writ petition passed interim orders directing the respondents not to interfere with the petitioner's possession. In that view of the matter, without keeping the matter pending, the writ petition is disposed of.

The respondents may take appropriate action for eviction of the petitioner in accordance with law and unless and until the petitioner is issued notice either under A.P. Land Encroachment Act, 1905 or Board Standing Orders, the petitioner shall not be evicted. If the petitioner is already evicted, it shall be open to the petitioner to approach the revenue authorities for allotment of other land.

The writ petition, with the above observations and directions, is disposed of.

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06.07.2005 **(V.V.S.RAO, J)**

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To

1 The Circle Inspector of Police, Banganapalli Village & Mandal,

Kurnool District.

2 The Station House Officer, Banganapalli Police Station,
Banganapalli Village & Mandal, KurnoolDistrict.

3 The Revenue Divisional Officer, Nandyal, Kurnool District.

4 The Mandal Revenue Officer, Banganapalli Village & Mandal,

Kurnool District.

5 Two CCs to the Government Pleader for Home and Two CCs to

the Government Pleader for Revenue, High Court Buildings,

Hyderabad. (OUT)

6 Two C.D. Copies.